

DRAFT 10/3/13

INSTRUCTIONS (PST and LUST Environmental Covenant Template)

Before a risk based closure of a release from an underground storage tank is approved, the Division of Environmental Response and Remediation may require an environmental covenant to give notice to future owners of the remaining contamination and to impose land use limitations to protect human health and the environment. An environmental covenant is signed by the fee simple owner of the property as grantor, the grantee, and the Division. The fee simple owner and the grantee may be the same person.

This template includes blank spaces and sample language enclosed by brackets [ ] that you must complete. Instructions may be provided in the brackets. The instructions should be deleted when the requested information is inserted. The template also refers to attachments in the introductory paragraph and in paragraph 2 that you must provide. Paragraph 8 of the template includes samples of previously approved language in italics for illustrative purposes. You should provide the proposed site specific land use controls to be included in paragraph 8 to the Division project manager for review and comment.

If the Division project manager is ready to recommend closure based upon the mutually acceptable proposed land use controls, the Division project manager will present your written proposed land use controls to the closure committee and to legal counsel. If the committee recommends approval, the Division project manager will ask you to complete the blanks in the template, and to insert the approved land use controls in paragraph 8. Please return the completed draft in a Word format to the Division project manager. If any of the boiler plate from the template does not apply to your situation, do not change it. Instead, please separately identify in writing, the paragraphs you would like to have revised or deleted, your reasons and your proposed revisions and deletions in a redlined word format. If an attorney helps you, please provide your attorney's contact information. The Division will consider your request.

If there are no changes to the boiler plate, please submit your completed draft final Environmental Covenant to the Division project manager in a Word format for final review. The Division project manager will review your proposed draft final, make final changes, if any, and will then return a final to you for signature. After you have signed the final environmental covenant you will return it to the Division project manager to route for final approval and signature by the Division director. When the environmental covenant has been fully executed, the Division project manager will notify you so that you may pick it up and have it recorded. After it is recorded, please provide either the original or a copy of the recorded environmental covenant to the Division project manager, who will then seek final approval for closure of your site.

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